

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20745
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GREGORIO FEBLES,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CR-125-1

February 17, 2000

Before EMILIO M. GARZA, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Gregorio Febles appeals his sentence from his guilty-plea convictions for possession with intent to distribute cocaine and cocaine base. He argues that the district court erred in not applying the safety valve provision provided in U.S.S.G. § 5C1.2 because he timely provided to the Government all information and evidence he had concerning his offense.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

According to Febles, the Government's assertion to the contrary is based on mere speculation.

Under § 5C1.2, the district court shall sentence a defendant according to the applicable guidelines, rather than the statutory minimum sentence if, among other things, the defendant truthfully provided the Government with "all information and evidence the defendant has concerning the offense[.]" § 5C1.2(5). A district court's refusal to apply § 5C1.2 is a factual finding reviewed for clear error. United States v. Edwards, 65 F.3d 430, 433 (5th Cir. 1995). We perceive no such error here.

AFFIRMED.